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2. Telegraphs and Telephones (§ 54 (7)*)—Limitation of Recovery—Failure to Read—Estoppel.—The fact that the sender, who kept telegram blanks in his office, and knew that there was something printed on the blanks, had never read it, and did not know what it was, notwithstanding the words on the face of the blank, "Send the following telegram subject to the terms on back hereof, which are hereby agreed to," could not be relied upon to defeat the company's protection by its limitation of liability for mistakes in transmission.

[Ed. Note.—For other cases, see *Telegraphs and Telephones*, Cent. Dig. §§ 45, 46; Dec. Dig. § 54 (7).* 13 Va.-W. Va. Enc. Dig. 181.]

3. Telegraphs and Telephones (§ 54 (7)*)—Mistakes in Transmission—Stipulation as to Liability.—The contention that the stipulation contained in the night letter blank did not form any part of the contract of transmission because the company's clerk attached the blank on which the message was originally written to the night letter blank in the presence of the sender's agent, who requested that it be sent as a night letter, was without merit, where the stipulation in the night letter blank was the same as that in the blank used by the sender.

[Ed. Note.—For other cases, see *Telegraphs and Telephones*, Cent. Dig. §§ 45, 46; Dec. Dig. § 54 (7).* 13 Va.-W. Va. Enc. Dig. 181.]

Error to Law and Chancery Court of City of Norfolk.

Action by W. P. Boyce against the Western Union Telegraph Company. Judgment for plaintiff, and he brings error. Affirmed.

Hughes, Little & Seawell, of Norfolk, for defendant in error.
Jas. G. Martin, of Norfolk, for plaintiff in error.

BROAD STREET BANK et al. v. BAKER MOTOR VEHICLE CO.

June 8, 1916.

[89 S. E. 110.]

Principal and Agent (§ 103 (10)*)—Power to Sell Principal's Property in Discharge of Agent's Debt.—Plaintiff authorized its agent in a city to sell an automobile belonging to it, on which the agent's sale commission was \$680, to a newspaper company for \$1,500 in cash and \$1,200 in advertising. The machine was delivered and the newspaper company gave its \$1,500 check to the agent and entered on its books an advertising credit for the agent of \$1,200. An indebtedness of the agent for \$460, then standing on the books of the newspaper company, operated to reduce the \$1,200 credit by that amount. Held, that title passed and no recovery could be had in detinue; the

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

application of the \$460 on the credit not being prejudicial to plaintiff because that sum was less than the agent's commission then unpaid.

[Ed. Note.—For other cases, see Principal and Agent, Cent. Dig. §§ 287, 355, 355½; Dec. Dig. § 103 (10).* 1 Va.-W. Va. Enc. Dig. 275.]

Error to Hustings Court of Richmond.

Action by the Baker Motor Vehicle Company against the Broad Street Bank and others. Judgment for plaintiff, and defendants bring error. Reversed, and judgment for defendants.

Wellford & Taylor, Geo. E. Hazz, and Scott & Buchanan, all of Richmond, for plaintiff's in error.

Munford, Hunton, Williams & Anderson and *Thos. B. Gay*, all of Richmond, for defendant in error.

HILLEARY v. HUBBELL.

[89 S. E. 111.]

June 8, 1916.

1. Evidence (§ 271 (1)*)—Hearsay—Statement of Party.—In a broker's action against another broker to recover a commission under a special contract whereby he would endeavor to sell to purchasers brought or sent by the defendant for a percentage of the commission, evidence that, after the commissioner of the revenue had advised him that he was not chargeable with the tax unless he received his commission, plaintiff reported the sale to the commissioner of the revenue and paid the tax thereon as a real estate agent, and that defendant did not do so, was inadmissible, as falling within the hearsay rule excluding all extrajudicial assertions and self-serving declarations.

[Ed. Note.—For other cases, see Evidence, Cent. Dig. §§ 1068-1070; Dec. Dig. § 271 (1).* 7 Va.-W. Va. Enc. Dig. 49.]

2. Appeal and Error (§ 1050 (2)*)—Brokers (§ 85 (1)*)—Action for Commission—Evidence.—In such case, evidence that defendant had not made a similar report to the commissioner of the revenue, the only purpose of which was to place the defendant before the jury in the light of a tax dodger notwithstanding defendant's explanation that he had no office in the county, was irrelevant and prejudicial.

[Ed. Note.—For other cases, see Appeal and Error, Cent. Dig. § 4154; Dec. Dig. § 1050 (2); Brokers, Cent. Dig. §§ 106, 108, 110, 115; Dec. Dig. § 85 (1).* 1 Va.-W. Va. Enc. Dig. 595.]

3. Appeal and Error (§ 1053 (6)*)—Harmless Error—Admission of Evidence—Cure by Instructions.—The error in admitting evidence that defendant had not reported the sale to the commissioner of the

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